

November 20, 2008

MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
November 20, 2008

I. OPENING OF MEETING AT 1:12 P.M. AT 400 WEST MONROE STREET, SUITE 306, SPRINGFIELD, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, Betty A. Bukraba, and Ares G. Dalianis (via telephone until 2:25 p.m.), Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; Doug Kasamis, Julie Moscardelli, John Logsdon, Roneta Taylor, JoAnne Tanner, Margaret van Dijk, and Erin Davis, Illinois Department of Central Management Services; David Carvalho, Bill Bell, and DiAna Greene, Illinois Department of Public Health; Brent Eggleston, Illinois Department of Agriculture; Maribeth Moore, and Linda Schober, Shared Services Center; and Abasse Tall, John Baker, Thomas Hobgood, and Britt Weatherford.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD OCTOBER 16, 2008

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 5-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 16, 2008.

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging	163.....	9
Agriculture	459.....	16
Arts Council.....	21.....	2
Capitol Development Board	36.....	0
Central Management Services	1,476.....	107
Children and Family Services	3,198.....	49
Civil Service Commission	4.....	0
Commerce & Economic Opportunity	416.....	67
Commerce Commission.....	72.....	0
Corrections.....	11,476.....	115
Criminal Justice Authority	55.....	6
Deaf and Hard of Hearing Comm.	6.....	1
Developmental Disabilities Council	10.....	1
Emergency Management Agency	93.....	5
Employment Security.....	1,727.....	25
Environmental Protection Agency	985.....	19
Financial & Professional Regulation	745.....	50
Guardianship and Advocacy	109.....	8
Healthcare and Family Services.....	2,499.....	29
Historic Preservation Agency	240.....	12
Human Rights Commission	12.....	2
Human Rights Department	150.....	10
Human Services	14,624.....	75
Investment Board.....	4.....	2
Juvenile Justice	1,163.....	19
Labor.....	81.....	7
Labor Relations Board Educational	13.....	2
Labor Relations Board State	20.....	2
Law Enforcement Training & Standards Bd.....	20.....	1
Medical District Commission	2.....	0
Military Affairs	128.....	3
Natural Resources	1,440.....	24
Pollution Control Board.....	19.....	2
Prisoner Review Board	20.....	0
Property Tax Appeal Board	21.....	1
Public Health.....	1,137.....	43
Revenue	2,126.....	70
State Fire Marshal	149.....	12
State Police	1,423.....	6
State Police Merit Board.....	6.....	1
State Retirement Systems	87.....	2
Transportation.....	2,450.....	0
Veterans' Affairs.....	1,105.....	7
Workers' Compensation Commission	172.....	10
TOTALS	50,162.....	822

B. Governing Rule - Jurisdiction B Exemptions

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
 - 1. The Governor, or
 - 2. A departmental director or assistant director appointed by the Governor, or
 - 3. A board or commission appointed by the Governor, or
 - 4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
 - 5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
 - 6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
 - 7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.

- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
 - 1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
 - 2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board, or commission.
 - 3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

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C. Requests for 4d(3) Exemption

- As to Item C, Executive Director Daniel Stralka reported that this request was for the Community Outreach Administrator in the Illinois Department of Public Health and had been continued two months in a row after Commission staff indicated that it recommended not approving this request. The agency subsequently withdrew the request.
- As to Items D and E, Executive Director Stralka reported these requests were for the Chief of information Technology Policy and Planning and the Enterprise Applications Manager for the Bureau of Communications and Computer Services (BCCS). Both these positions report to the Deputy Director of BCCS who in turn reports to the Director. To meet the reporting requirement, this Deputy Director would have to be considered the equivalent of a statutory assistant director.

In general, BCCS has significant statewide management information responsibilities which not only impact each and every state agency, board, commission, and elected official, but others that rely on that information such as local police departments, universities, and the federal government. It has three main areas of responsibility: Enterprise Applications, Infrastructure, and Networks. BCCS is a large bureau with 700 employees and an annual budget of \$332,000,000. It manages \$154,000,000 in telecommunications assets. Its statewide data network supports over 800 schools, universities, agencies, museums, hospitals, and other units of local government.

The agency has in the past requested to exempt positions under the Deputy Director of BCCS and the Commission has granted several of these requests such that there are presently seven exempt positions in this Bureau. Staff recently met with the Deputy Director and others to discuss these pending requests and to better understand the overall structure of the Bureau and how it relates to not only the already exempted positions but these and any future requests. As a result of that meeting, it was clarified that the Bureau is ultimately seeking a total of nine 4d(3) exempt positions under the Deputy Director. If the Commission approves these pending requests, a final requested position in the area of computer information security would be forthcoming while a currently exempt position would be abolished.

With regard to the Chief of Information Technology Policy position, it has significant principal policy responsibility to locate, research, develop, and recommend short-term and long-term strategies and processes that the State of Illinois would commit to in its information management technologies. Given the technological nature of the position, it is presumed these recommendations would carry great weight. The position can be compared to a navigator in that it charts the direction BCCS will be going, making decisions on its behalf with significant ramifications similar to choosing between HD-DVD vs. Blu-Ray, or VHS vs. Beta in the past. For these reasons, Staff recommended approval.

With regard to the Enterprise Applications Manager, this position has significant principal policy responsibility to locate, select, and implement a variety of applications that BCCS provides to a variety of customers on a statewide basis. For these reasons, Staff recommended approval of this request.

Doug Kasamis, Deputy Director of BCCS was present and concurred with the above explanation. He noted that BCCS serves 8,000 - not 800 - schools, universities, etc. In response to a question from Chairman Kolker as to who is doing the work of these positions at the present time, he indicated that various others are, but that the work is not being performed at the level needed. In response to a question from Commissioner Peterson as to qualifications, Doug Kasamis responded that they essentially need to ensure that the applications accurately reflect the business functions of the State.

- As to Item F, Executive Director Stralka reported that this request is for the Chief of the Division of Patient Safety at the Illinois Department of Public Health, a position that reports to the Deputy Director of the Office of Policy, Planning & Statistics who in turn reports to the Director. To meet the reporting requirement, this Deputy Director would have to be considered the equivalent of a statutory assistant director.

Executive Order #6 in 2008 established the Division of Patient Safety to address preventable medical errors and set forth a number of powers and duties within the Division including encouraging the use of e-prescription programs to reduce the risk of medication errors, assist in the drafting and issuance of recommended medication practices, expand the State's nursing home database, and expand health care provider information transparency. As part of this process, this division, and hence this position, administers a number of programs defined by statute such as the Illinois Adverse Health Care Events Reporting Act, the Consumer Guide to Health Act, and the Hospital Report Card Act. From information provided by the agency, none of these Acts provide the basis for 4d(3) exemption of any other positions within the agency. This position also takes the lead in establishing electronic health records with the Department of Healthcare and Family Services and serves on a number of industry advisory committees related to these areas as the Director's representative. For these reasons, Staff recommended approval of this request. David Carvalho, the Deputy Director of the Office of Policy, Planning & Statistics, concurred with the above explanation.

- As to Item G, Executive Director Stralka reported that this request is for the Chief of the Division of Long Term Care at Illinois Department of Public Health, a position that reports to the Deputy Director of the Office of Health Care Regulation who in turn reports to the Director. To meet the reporting requirement, this Deputy Director would have to be considered the equivalent of a statutory assistant director.

This position has principal policy responsibilities for, essentially, all things related to long term care at the agency on a statewide basis. This includes formulation of and carrying out agency policy, evaluation of agency practices as well as the implementation of agency resources, and acting in the place of the Director with the authority to regulate individual facilities – there are over 1200 long term care facilities and 250 assisted living facilities statewide under the regulatory control of this Division – including stopping operations. This program is defined by the Nursing Home Care Act. Given the nature of the position’s responsibilities, Staff recommended approval of this request. Commission Kolker inquired and Executive Director Stralka confirmed that the required notice was provided to the incumbent.

- As to Item H, Executive Director Daniel Stralka reported that this request is for the Economic Development Project Manager for the Illinois Department of Agriculture, a position that reports to the Director. This position was previously granted 4d(3) exemption in September 2004 but the exemption was subsequently rescinded due to extended vacancy last year. The agency is now essentially requesting that the exemption be reinstated. This position has principal policy responsibility for developing, implementing and managing the agency’s economic development initiatives to promote agricultural business associated with wind farms, wineries, hunting, ethanol plants, and farmers markets. While Staff had some concern that there may be some overlap with economic development initiative positions in Department of Commerce and Economic Opportunity, there are no known dedicated positions as such and those apparently would have a different source of funding. In this position’s previous incarnation, it was associated with a Regional Economic Development Plan and collaborated with Department of Commerce and Economic Opportunity. Those references have now been deleted. Given that this position had been previously declared exempt and the nature of the program it is responsible for, Staff recommended approval of this request.

Commissioner Peterson inquired as to whether this position was limited to Perry County. Executive Director Daniel Stralka responded that, based on information provided by the agency, the position is based in Perry County because it has the highest unemployment rate. The position has statewide responsibilities.

- As to Item I, Executive Director Stralka reported that the agency withdrew this request.
- As to Item J, Executive Director Stralka reported this request is for the Manager of the Information Services Technical Support Division at the Department of Revenue, a position which reports to the Program Administrator for Information Services, who in turn reports to the Director. To meet the reporting requirement, the Program Administrator would have to be considered the equivalent of a statutory assistant director.

This position essentially functions as a subordinate to the Program Administrator, a position that was previously declared 4d(3) exempt and has principal programmatic responsibility for all aspects of computer operations at Revenue. The requested position, which undoubtedly has significant responsibilities in the implementation and management of the information technology system at the agency, lacks the principality required for 4d(3) exemption. In addition, as in all agencies, information services is a support service to the actual programs of the agency. It is, at its base, a tool that program managers use to carry out the work of the agency. Finally, while most of the larger agencies such as Department of Revenue have 4d(3) exempt Chief Information Officer positions which is what the Program Administrator is, the Commission has yet to approve a request for an assistant to a Chief Information Officer at the agency level. He noted that the agency never responded to Staff's initial response to this request back on November 12. For these reasons, Staff recommended denying this request.

- As to Item K, Executive Director Daniel Stralka reported this request is for the Director of the Fire Prevention program, a position that reports directly to the State Fire Marshal. This position has principal policy responsibility for all aspects of several programs at the Office of the Fire Marshal mandated by statute such as the Fire Investigation Act, the Liquefied Petroleum Gas Regulation Act, and the Gasoline Storage Act. It accomplishes this by managing a statewide staff of inspectors via subordinate regional managers. As it directs programs defined by statute with substantial responsibility to commit the agency to a course of action, Staff recommended approval of this request.

Commission Kolker inquired if this was a term appointment and if the required notice was provided to the incumbent. Executive Director Stralka answered that it was a term appointment and confirmed that the required notice was provided to the incumbent.

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER DALIANIS, AND THE MOTION ADOPTED 5-0 TO GRANT AND DENY THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:

The following 4d(3) exemption requests were granted on November 20, 2008:

D. Illinois Department of Central Management Services

Position Number	40070-37-10-000-10-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Communications & Computer Services (BCCS)
Functional Title	Chief of Information Technology Policy & Planning for BCCS
Incumbent	None
Supervisor	Deputy Director of BCCS, who reports to the Director
Location	Cook County

E. Illinois Department of Central Management Services

Position Number	40070-37-12-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Bureau of Communications & Computer Services (BCCS)
Functional Title	Enterprise Applications Manager
Incumbent	None
Supervisor	Deputy Director of BCCS, who reports to the Director
Location	Sangamon County

F. Illinois Department of Public Health

Position Number	40070-20-26-000-00-81
Position Title	Senior Public Service Administrator
Bureau/Division	Patient Safety
Functional Title	Division Chief, Division of Patient Safety in the Office of Policy, Planning & Statistics
Incumbent	None
Supervisor	Deputy Director of the Office of Policy, Planning & Statistics, who reports to the Director
Location	Cook County

G. Illinois Department of Public Health

Position Number	40070-20-41-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Long Term Care
Functional Title	Division Chief for Long Term Care, in the Office of Health Care Regulation
Incumbent	Richard L. Dees
Supervisor	Deputy Director of the Office of Health Care Regulation, who reports to the Director
Location	County

H. Illinois Department of Agriculture

Position Number	40070-11-01-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Director's Office
Functional Title	Statewide Project Manager of Economic Development Initiatives
Incumbent	None
Supervisor	Director
Location	Perry County

K. Office of the State Fire Marshal

Position Number	40070-50-50-100-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Fire Prevention
Functional Title	Division Director, Fire Prevention
Incumbent	Misty D. Matykiewicz
Supervisor	State Fire Marshal
Location	Sangamon County

The following 4d(3) exemption request was denied on November 20, 2008:

J. Illinois Department of Revenue

Position Number	40070-25-20-140-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	IS/Technical Support Division
Functional Title	Manager, IS/Technical Support Division
Incumbent	None
Supervisor	Information Services Administrator, who reports to the Director
Location	Sangamon County

V. CLASS SPECIFICATIONS

- **None submitted.**

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA, AND THE MOTION ADOPTED 5-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.

VI. MOTION TO GO INTO EXECUTIVE SESSION

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE THE MOTION ADOPTED 5-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	YES
BUKRABA	YES		

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 400 West Monroe Street, Suite 301, Springfield, Illinois at 2:47 p.m.

PRESENT

Chris Kolker, Chairman; Raymond W. Ewell, Barbara J. Peterson, and Betty A. Bukraba, Commissioners; Daniel Stralka, Executive Director; Andrew Barris, Assistant Executive Director; and Abasse Tall, John Logsdon, John Baker, and Thomas Hobgood.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services' Consecutive Non-Merit Report.

Agency	9/30/08	10/31/08	10/31/07
Agriculture	2	2	0
Central Management Services	4	2	5
Children and Family Services	3	2	6
Employment Security	7	1	0
Healthcare and Family Services	12	12	5
Historic Preservation	0	0	7
Human Services	5	2	2
Investment Board	1	1	0
Natural Resources	15	7	9
State Police	0	1	0
State Retirement Systems	1	1	0
Transportation	13	6	10
Veteran's Affairs	7	5	0
Workers' Compensation Commission	6	6	2
Totals	76	48	46

IX. PUBLICLY ANNOUNCED DECISION RESULTING FROM APPEAL

- **DISCHARGE**

DA-30-08

Employee	Thomas Hobgood	Appeal Date	12/27/07
Agency	DOR	Decision Date	11/07/08
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Conduct unbecoming; care of official documents; confidentiality of information	Recommended Decision	Charges are partially proven and warrant 60-day suspension.

IT WAS MOVED BY COMMISSIONER BUKRABA, SECONDED BY COMMISSIONER PETERSON, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION THAT THE CHARGES HAVE BEEN PARTIALLY PROVEN, BUT THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DO NOT RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

- **CONSOLIDATED ALLOCATION APPEALS¹**

AA-26-08

Employee	Teresa L. Pickle	Appeal Date	12/10/07
Agency	DVA	Decision Date	11/03/08
Type	Allocation	ALJ	Andrew Barris
Allegations	Positions should be allocated to Registered Nurse II	Proposal for Decision	Employees did not prove their positions were more appropriately allocated to Registered Nurse II class.

¹ Three allocation appeals were consolidated under AA-26-08, Teresa L. Pickle vs. Central Management Services. They are AA-23-08 filed by Cindy Drennan-Smith, AA-24-08 filed by Diane Jennings, and AA-25-08 filed by Felicia Kindhart.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION THAT THE EMPLOYEES DID NOT PROVE THEIR POSITION CLASSIFICATIONS WERE IMPROPERLY ALLOCATED.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

- **RULE VIOLATION APPEAL**

RV-45-08

Employee	Abasse Tall	Appeal Date	05/15/08
Agency	DCFS	Decision Date	10/28/08
Type	Rule Violation	ALJ	Andrew Barris
Allegations	Violation of Section 310.450 & 310.540 Pay Plan	Proposed Finding	Violation of Section 310.450 (b)(1); agency directed to allow employees to discuss evaluations with their immediate supervisors for future evaluations of covered employees.

IT WAS MOVED BY COMMISSIONER PETERSON, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S PROPOSED FINDING THAT THE EMPLOYEE PROVED BY A PREPONDERANCE OF THE EVIDENCE THAT THE ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES VIOLATED SECTION 310.450(B)(1). HOWEVER, SINCE THE EMPLOYEE WAS SUBSEQUENTLY DISCHARGED, THE ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES IS DIRECTED TO CONFORM TO ALL OF THE REQUIREMENTS OF SECTION 310.450(B)(1) FOR ALL FUTURE EVALUATIONS BY ENSURING THAT IMMEDIATE SUPERVISORS DISCUSS EVALUATION RESULTS WITH COVERED EMPLOYEES.

KOLKER	YES	EWELL	YES
PETERSON	YES	DALIANIS	
BUKRABA	YES		

X. PROPOSED REVISIONS TO CIVIL SERVICE COMMISSION RULES

Assistant Executive Director Andrew Barris made a brief presentation on several minor changes to the proposed revisions to Civil Service Commission Rules subsequent to last month's meeting.

IT WAS MOVED BY COMMISSION PETERSON, SECONDED BY COMMISSIONER EWELL, AND THE MOTION ADOPTED 4-0 TO APPROVE THE PROPOSED REVISIONS TO CIVIL SERVICE COMMISSION RULES AS SUBMITTED WITH ADDITIONAL CHANGES SET FORTH AND EXPLAINED BY ASSISTANT EXECUTIVE DIRECTOR BARRIS.

XI. STAFF REPORT

Executive Director Daniel Stralka reported that:

- Commission Staff submitted the fiscal year 2010 budget request to the Governor's Office of Management & Budget and is waiting for a response.

XII. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular meeting to be held on December 18, 2008 at 9:00 a.m. in the Commission's Chicago office.

XIII. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER PETERSON, AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 2:55 P.M.